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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC
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VIENNA, VA 22183

EXAMINER

RAMPURIA, SHARAD K

ART UNIT	PAPER NUMBER
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2617

MAIL DATE	DELIVERY MODE
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12/30/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/815,797	Applicant(s) CALIN ET AL.	
	Examiner SHARAD RAMPURIA	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,7-10,20,22,26,27 and 37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,7-10,20,22,26,27 and 37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/16/2009 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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Claims 1, 3, 7-10, 20, 22, 26-27, 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Feuerstein; Martin J. et al.** [US 6141565 A] in view of **Petrus; Paul** [US 6954643 B2].

As per claim 1, **Feuerstein** teaches:

A method implemented in a controller for setting a number of base stations that can be considered hand-off base stations (i.e. Abstract) comprising the steps of:

Measuring real-time traffic flow criteria associated with one or more base stations; (e.g. traffic-load; Col.3; 55-65, Col.13; 1-26)

Feuerstein doesn't teach specifically, setting a number of base stations, from a list of potential hand-off base stations that can be considered hand-off base stations to a number that is below an initial number to prevent undesired fluctuations in call blocking and call dropping rates depending on the measured traffic flow criteria and traffic-based hysteresis parameters. However, **Petrus** teaches in an analogous art, that setting a number of base stations, from a list of potential hand-off base stations, that can be considered hand-off base stations to a number that is below an initial number to prevent undesired fluctuations in call blocking and call dropping rates (e.g. hand-off based on certain condition; Col.7; 6-53) depending on the measured traffic flow criteria and traffic-based hysteresis parameters. (e.g. hysteresis and traffic factor; Col.10; 35-40, Col.7; 25-53, Col.6; 58-62, Col.4; 10-14) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to including setting a number of base stations, from a list of potential hand-off base stations, that can be considered hand-off base stations to a number that is below an initial number to prevent undesired fluctuations in call blocking and call dropping rates

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depending on the measured traffic flow criteria and traffic-based hysteresis parameters in order to provide a method and apparatus for facilitating initial base station selection and/or handover collectively referred to herein as base station selection. In accordance with another aspect, base station selection takes into account a set of one or more selection criteria (e.g., distance and base station load) in addition to signal strength and hysteresis information to select a base station.

As per claims 3, 22, Feuerstein teaches all the particulars of the claim maintaining an initial neighbor list and generating an adaptable neighbor list of potential hand-off base stations based on traffic flows and traffic-based hysteresis parameters. However, **Petrus** teaches in an analogous art, that the method as in claims 1, 20, respectively, further comprising the step of maintaining an initial neighbor list and generating an adaptable neighbor list of potential hand-off base stations based on traffic flows and traffic-based hysteresis parameters. (e.g. hysteresis and traffic factor; Col.10; 35-40)

As per claims 7-8, 26-27, Feuerstein teaches:

The method as in claims 1, 20, respectively, further comprises the step of forwarding the varied, adaptable neighbor list to the wireless device. (e.g. adaptable neighbor list; Col.11; 11-25)

As per claim 9, Feuerstein teaches:

The method as in claim 1 wherein the wireless device is operable to enable the hand-off. (Col.11; 11-25)

As per claim 10, Feuerstein teaches:

The method as in claim 1 wherein the at least one base station on the varied list is operable to enable the hand-off. (Col.11; 11-25)

Claims 20, 37, are the **method, system,** claims, corresponding to **method** claim 1 respectively, and rejected under the same rationale set forth in connection with the rejection of claim 1 respectively, above.

Response to Amendments & Remarks

Applicant's arguments filed on 11/16/2009 have been fully considered but they are not persuasive.

Relating to Claim 1:

In view of the fact, that **PETRUS** teaches, "In accordance with one aspect of the invention, received signal strength and hysteresis (e.g., as provided by the cost function C) along with other base station selection criteria, such as base station load and estimated distance thereto, are used to select a base station." (Petrus, Col.10; 35-40, Col.7; 25-53, Col.6; 58-62, Col.4; 10-14). Thus, it is evidently, the explanations above are directed to telecommunications systems and methods for base station selection criteria, such as base station load, that positively, edify by **PETRUS**. Hence, it is believed that **PETRUS** still teaches the claimed limitations.

The above arguments also recites for the other independent claims, consequently the response is the same explanation as set forth above with regard to claim 1.

Because the remaining claims depend directly/indirectly, from one of the independent claims discussed above, as a result the response is the same justification as set forth above.

With the intention of that explanation, it is believed and as enlighten above, the refutation are sustained.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharad Rampuria whose telephone number is (571) 272-7870. The examiner can normally be reached on M-F. (8:30-5 EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost can be reached on (571) 272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Sharad Rampuria/
Primary Examiner
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